



U.S. Immigration
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News Release

5TH CIRCUIT RULES DRUG DEALER MUST FORFEIT \$2.7 MILLION IN LOTTERY WINNINGS

Man bought lottery ticket with illegal drug proceeds

BROWNSVILLE, Texas — A Mexican national here who won a \$5 million Texas Lottery jackpot is now being ordered to forfeit his winnings since his ticket was purchased with illegal drug monies.

This Fifth Circuit Court of Appeals decision was announced by U.S. Attorney Chuck Rosenberg, Southern District of Texas, and Alonzo Pena, special agent-in-charge of ICE San Antonio Office of Investigations.

The decision of the Fifth Circuit Court of Appeals affirmed the convictions and substantial sentence of Jose Luis Betancourt for drug trafficking offenses, and the forfeiture of his interest in the Dec. 11, 2002 Texas Lottery jackpot drawing. The 5th Circuit Court's opinion was issued Aug. 17.

"I am proud of the men and women of this office, and their aggressive and proper use of the forfeiture statutes to recover this money for the United States," said U.S. Attorney Chuck Rosenberg.

"The result of this case illustrates that those individuals who think they can use illicit funds to further their financial income are mistaken," Alonzo Pena, special agent-in-charge for ICE San Antonio. "ICE will utilize every investigative resource to bring those individuals to justice who continue to attempt to subvert the system."

Betancourt, 52, a resident alien from Mexico residing in Brownsville, Texas, appealed the May 30, 2003 jury finding that resulted in his conviction for conspiracy and two counts of possession with intent to distribute cocaine. He also appealed the jury's June 2, 2003 verdict finding that Betancourt had purchased a winning lottery ticket with drug proceeds and must therefore forfeit his one-half interest in more than \$5 million in Texas Lottery winnings.

Two days after the Texas Lottery Commission paid Betancourt approximately \$5.5 million, representing the cash out proceeds from the Texas Lottery minus an amount withheld for federal income taxes, Betancourt delivered cocaine that led to his arrest and convictions. His arrest followed his long involvement in drug trafficking activities in the Brownsville, Texas, area.

In a written opinion issued Aug. 17, Judge Edith Brown Clement, writing for a three-judge panel of the 5th Circuit Court of Appeals, concluded that there was sufficient evidence to show that Betancourt was the leader of a drug dealing organization that involved at least five persons. The panel also concluded that District Judge Hilda Tagle made a reasonable and conservative extrapolation of the evidence from the trial when she approximated the amount of cocaine Betancourt sold between May 2000 and his arrest in early 2003 at 102 kilograms (224 lbs.).

The Court of Appeals found that Betancourt's sentence, a total of 292 months in federal prison without parole, was "reasonable" under the Supreme Court's recent decision in *United States v. Booker*. In denying Betancourt's claim to the contrary, the appellate court found that he had failed to prove the District Court would have sentenced him to a lower sentence.

Federal law authorizes the government to seek to forfeit all property and proceeds obtained from drug trafficking and any monies or other property obtained with those proceeds. The Fifth Circuit agreed with the District Court's determination that Betancourt did not have any other source of income aside from selling cocaine; therefore, he acquired his interest in a winning Texas lottery ticket with money he had made selling cocaine.

Accordingly, the Court of Appeals concluded that Betancourt's Texas Lottery proceeds of approximately \$2.7 million — his interest in the total amount of the winnings — were correctly forfeited to the United States.

ICE agents in Brownsville led the investigation, along with the Cameron County Sheriff's Office, and the Brownsville Police Department.

Two Assistant U.S. Attorneys, Jody L. Young and Elena Salinas, both from the Brownsville office, prosecuted the case. At the appellate level, Assistant U.S. Attorneys Sue Kempner and Richard Berry presided over the case.

ICE

U.S. Immigration and Customs Enforcement was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of five integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.